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3763

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Cox et al.

Serial No.: 08/909,130

Examiner: Thompson, K.

Filed: August 11, 1997

Group Art Unit: 3763

For: PERFUSION BALLOON ANGIOPLASTY CATHETER

Docket No.: 1001.1138103

TRANSMITTAL SHEET

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

CERTIFICATE UNDER 37 C.F.R. 1.10: The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, "Express Mail Post Office to Addressee" having an Express Mail mailing label number of: EV091138942US, in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C., 20231 on this 30 day of January 2003.

By:

JoAnn Lindman
JoAnn Lindman

We are transmitting herewith the attached:

Response.

Postcard receipt.

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By:

Glenn M. Seager, Reg. No. 36,926

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P A T E N T

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RESPONSEAssistant Commissioner
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By _____


JoAnn Lindman

Dear Sir:

The following comments are presented in response to the Office Action mailed November 7, 2002. Favorable reconsideration is respectfully requested.

With respect to the Election of Species requirement, Applicants hereby affirm the election, without traverse, of Species (9), corresponding to claims 4, 5, 10, 11 and 12.

Applicants respectfully traverse the Examiner's rejection of claims 4 and 5 under 35 USC § 102(b) as anticipated by Saab, U.S. Patent No. 4,820,349. In order to

anticipate, the cited reference must disclose each and every element of the claimed invention. Saab fails to do so.

Claim 4 describes a balloon angioplasty catheter that requires a perfusion lumen having a proximal end that is proximate a proximal end of the balloon. The perfusion lumen extends through the balloon and decreases distally in cross-section within an inflatable portion of the balloon. A perfusion lumen is a lumen that permits blood flow therethrough. A perfusion lumen having a proximal end proximate the proximal end of the balloon is a lumen that permits blood to enter the perfusion lumen at the proximal end thereof and thereafter proceed through the perfusion lumen. As a result, blood can flow past the vascular site at which the balloon is deployed.

Saab does not describe or suggest a perfusion lumen. Instead, Saab is directed to a catheter that has a collapsible exterior. The exterior of the shaft can collapse down onto a main lumen 18 that extends through the catheter. The main lumen 18 is not a perfusion lumen. Moreover, the main lumen 18 appears to extend proximally some distance from the proximal end of the balloon and thus cannot be considered as having a proximal end that is proximate the proximal end of the balloon.

Saab does not describe the claimed invention and thus the rejection should be withdrawn. Claim 5 depends from, and further limits, claim 4 and thus is similarly patentable over the cited art. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claim 10 under 35 USC § 102(b) as anticipated by Sahota, U.S. Patent No. 5,090,958. In order to anticipate, the cited reference must disclose each and every element of the claimed invention. Sahota fails to do so.

Claim 10 describes a balloon angioplasty catheter that includes a perfusion lumen that extends through the balloon and a collapsible guidewire lumen that is disposed within the perfusion lumen. Sahota neither describes nor suggests the claimed invention.

In particular, Sahota describes (in relation to Figures 8-10, as referenced by the Examiner), a dilation balloon catheter that has both a perfusion (bypass) lumen 68 and a lumen through which a guidewire lumen 66 can pass. The lumen through which the guidewire 66 passes appears to be positioned within the bypass lumen 68. However, Sahota does not describe or suggest a guidewire lumen that is collapsible. Indeed, Sahota teaches that the bypass lumen 68 permits blood flow without removing the guidewire 66. See for example column 7, lines 3-12 of Sahota.

With respect to a collapsible guidewire lumen, the Examiner points to column 5, lines 25-28 as disclosing this feature of the claimed invention. This is incorrect. A careful reading of column 5, including lines 21-24, it becomes apparent that Sahota is referring to second wire 24, which has been advanced distally of a dilated segment of blood vessel, preventing collapse of the blood vessel lumen. Sahota neither describes nor suggests the claimed collapsible guidewire lumen disposed within a perfusion lumen. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claims 11 and 12 under 35 USC § 103(a) as unpatentable over Sahota, U.S. Patent No. 5,090,958, in view of Saab, U.S. Patent No. 4,820,349. Sahota is distinguished above as failing to describe or suggest the invention of claim 10. Claims 11 and 12 depend from, and further limit, claim 10 and thus are similarly patentable over Sahota. The Examiner relies upon Saab to provide particulars of the claimed perfusion lumen, but as noted above Saab in fact

fails to describe or suggest a perfusion lumen and thus Saab fails to remedy the noted shortcomings of Sahota. Favorable reconsideration is respectfully requested.

In view of the comments presented herein, favorable reconsideration in the form of a Notice of Allowance is respectfully requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

James E. Cox et al.

By their Attorney,

Date: Jan. 30, 2003

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